

**Senate Bills 53-54 (As Introduced)****Topic:** Spyware**Sponsor:** Senator Brown**Co-sponsors:** Senators Patterson and Bishop**Committee:** Senate Technology and Energy**Date Introduced:** January 25, 2005**Date of Summary:** February 15, 2005

Senate Bill 54 amends Public Act 53 of 1979 to make it illegal to install or attempt to install spyware into a computer program, computer, computer system, or computer network, except under circumstances specified in the bill. These circumstances include identification of the person seeking to install or the person on whose behalf the software will be installed and appropriate notice. The bill defines “spyware” and also lists a number of entities excluded from the definition. These include computer instructions or software typically related to ordinary and expected use of the computer program, installed by the owner, or installed on behalf of the owner while acting within the scope of his or her authority. Other exceptions include an internet service provider, a person authorized by law to conduct criminal investigations, and cookies.

The bill defines a violation of the proposed requirement as a misdemeanor subject to imprisonment for not more than 93 days, a fine of not more than \$1,000, or both. If the violation causes interruption of or interference to the use of the computer program, computer, computer system, or computer network, the person is guilty of a felony punishable by imprisonment for not more than 2 years, a fine of not more than \$5,000, or both. In the case of a prior conviction, the person is guilty of a felony punishable by imprisonment for not more than 4 years, a fine of not more than \$10,000, or both.

Senate Bill 53 amends the Code of Criminal Procedure to add the penalties provided in Senate Bill 54 to Michigan’s sentencing guidelines.